

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

In Re:) 19-30367
)
Vincent A. Tortorello,) Chapter 13
)
Debtor(s).) Judge A. Benjamin Goldgar

NOTICE OF MOTION

TO: See attached Service List

PLEASE TAKE NOTICE that on August 7, 2020, at 9:30 am, or as soon thereafter as counsel may be heard, I shall appear before the Honorable A. Benjamin Goldgar, or any other judge sitting in that judge's place, and present the Debtor's **Objection to Notices of Postpetition Fees filed by Dimon Homes, LLC**, a copy of which is attached.

This motion will be presented and heard telephonically. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must set up and use an account with Court Solutions, LLC. You can set up an account at www.Court-Solutions.com or by calling Court Solutions at (917)746-7476.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objections is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

Vincent A. Tortorello, Debtor

By: /s/ John J. Ellmann

John J. Ellmann , Attorney for the Debtor(s)
DAVID M. SIEGEL & ASSOCIATES, LLC
790 Chaddick Drive
Wheeling, IL 60090
847/ 520-8100
david siegelbk@gmail.com

CERTIFICATE OF SERVICE

I, John Ellmann, certify that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on June 24, 2020, at or before 5:00 pm.

SERVICE LIST

To the following persons or entities who were served electronically by the Bankruptcy Court:

Glenn Stearns, Ch. 13 Trustee: mcguckin_m@lisle13.com

To the following persons or entities who were served via regular U.S. Mail:

Dimon Homes, LLC
c/o Cohen Dovitz Makowka, LLC
10729 W. 159th Street
Orland Park, IL 60467

Vincent Tortorello
2717 Elizabeth Avenue
Zion, IL 60099

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

In Re:) 19-30367
)
Vincent A. Tortorello,) Chapter 13
)
Debtor(s).) Judge A. Benjamin Goldgar

**OBJECTION TO NOTICES OF POSTPETITION MORTGAGE FEES, EXPENSES,
AND CHARGES BY DIMON HOMES, LLC**

NOW COMES the Debtor, by his attorneys, DAVID M. SIEGEL & ASSOCIATES, LLC, to present his Objection, and in support thereof states as follows:

1. Jurisdiction is proper and venue is fixed in this Court with respect to these parties.
2. On October 25, 2019, the Debtor filed a voluntary petition for relief pursuant to Chapter 13 under Title 11 USC, Glenn Stearns was appointed Trustee, and the chapter 13 plan was confirmed on January 31, 2020.
3. The Debtors scheduled Dimon Homes, LLC (Dimon) as a secured claim with arrearage, and that claim is being paid pursuant to the terms of the confirmed plan.
4. On February 12, 2020 Dimon filed "Notice of Postpetition Mortgage Fees, Expenses and Charges" (Official Form 410S2) stating that \$4,785.00 in attorney's fees had been incurred postpetition. (Exhibit A)
5. On June 19, 2020 Dimon filed another "Notice of Postpetition Mortgage Fees, Expenses and Charges" (Official Form 410S2) stating that an additional \$2,995.00 in attorney's fees had been incurred postpetition. (Exhibit B)
6. The attorney's fees cited by Dimon Homes, LLC are excessive and unwarranted. This chapter 13 Bankruptcy case is a routine filing for the purpose of catching up on mortgage arrears. It does not present any extraordinary issues or disputes which would necessitate so much attorney's work.

7. The Objection to Notices of Postpetition Mortgage Fees, Expenses and Charges should be sustained and the attorney's fees sought by Dimon should be disallowed. Alternatively the fees should be decreased significantly.

WHEREFORE, Debtor respectfully requests that this honorable Court enter an order Sustaining the Objection, and for such other and further relief as the Court shall deem proper.

Respectfully Submitted,

/s/ John Ellmann

John J. Ellmann, A.R.D.C. #6257894
Attorney for the Debtor(s)

DAVID M. SIEGEL & ASSOCIATES, LLC
790 Chaddick Drive
Wheeling, IL 60090
847/ 520-8100

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Vincent A. Tortorello

Debtor.

Case No. 19-30367

Judge A. Benjamin Goldgar

NOTICE OF FILING

NOTICE IS HEREBY GIVEN that on February 12, 2020, I caused to be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Illinois, a Notice of Post-Petition Mortgage Fees, Expenses, and Charges, a copy of which is attached and hereby served upon you.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice and Notice of Post-Petition Mortgage Fees, Expenses, and Charges upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on February 12, 2020, and as to the Debtor by causing same to be mailed in the properly addresses envelope, postage prepaid from 10729 W. 159th Street, Orland Park, IL 60467 before the hour of 5:00 p.m. on February 13, 2020.

VIA U.S. MAIL:

Vincent A. Tortorello, 2717 Elizabeth Avenue, Zion, IL 60099

VIA ELECTRONIC NOTICE THROUGH ECF:

David M. Siegel, Attorney for Vincent A. Tortorello

Glenn B. Stearns, Trustee

Patrick S. Layng, U.S. Trustee

/s/ Sandra L. Makowka

Cohen Dovitz Makowka, LLC
Sandra L. Makowka
Attorney No. 6286780
10729 West 159th Street
Orland Park, IL 60467
(708) 460-7711
bankruptcy@cdm.legal

Debtor 1 Vincent A. Tortorello

Debtor 2
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Illinois

Case number 19-30367



Official Form 410S2

Notice of Postpetition Mortgage Fees, Expenses, and Charges 12/15

If the debtor's plan provides for payment of postpetition contractual installments on your claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any fees, expenses, and charges incurred after the bankruptcy filing that you assert are recoverable against the debtor or against the debtor's principal residence.

File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002.1.

Name of creditor: Dimon Homes, LLC

Court claim no. (if known): 5

Last 4 digits of any number you use to identify the debtor's account: _____

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

☒ No

☐ Yes. Date of the last notice: _____

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	<u>11/18/19, 12/16/19, 1/13/20</u>	(3) \$ <u>4,785.00</u>
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: <u>Attorneys' Fees</u>	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002.1.

Debtor 1 Vincent A. Tortorello
First Name Middle Name Last Name

Case number (if known) 19-30367

Part 2: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- ☐ I am the creditor.
☒ I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

X /s/ Sandra L. Makowka
Signature

Date 02/06/2020

Print: Sandra L. Makowka
First Name Middle Name Last Name

Title Attorney

Company Cohen Dovitz Makowka, LLC

Address 10729 W. 159th Street
Number Street
Orland Park IL 60467
City State ZIP Code

Contact phone (708) 460-7711

Email bankruptcy@cdm.legal

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Vincent A. Tortorello

Debtor.

Case No. 19-30367

Judge A. Benjamin Goldgar

NOTICE OF FILING

NOTICE IS HEREBY GIVEN that on June 19, 2020, I caused to be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Illinois, a Notice of Post-Petition Mortgage Fees, Expenses, and Charges, a copy of which is attached and hereby served upon you.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice and Notice of Post-Petition Mortgage Fees, Expenses, and Charges upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on June 19, 2020, and as to the Debtor by causing same to be mailed in the properly addresses envelope, postage prepaid from 10729 W. 159th Street, Orland Park, IL 60467 before the hour of 5:00 p.m. on June 19, 2020.

VIA U.S. MAIL:

Vincent A. Tortorello, 2717 Elizabeth Avenue, Zion, IL 60099

VIA ELECTRONIC NOTICE THROUGH ECF:

David M. Siegel, Attorney for Vincent A. Tortorello

Glenn B. Stearns, Trustee

Patrick S. Layng, U.S. Trustee

/s/Ashley K. Rasmussen

Cohen Dovitz Makowka, LLC
Ashley K. Rasmussen
Attorney No. 6308095
10729 West 159th Street
Orland Park, IL 60467
(708) 460-7711
bankruptcy@cdm.legal

Debtor 1 Vincent A. Tortorello

Debtor 2
(Spouse, if filing) _____

United States Bankruptcy Court for the: Northern District of Illinois

Case number 19-30367

Filed: 06/24/20 Entered: 06/24/20 13:17:00
19/20 14:33:09

Desc Main
Desc Main

Official Form 410S2

Notice of Postpetition Mortgage Fees, Expenses, and Charges 12/15

If the debtor's plan provides for payment of postpetition contractual installments on your claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any fees, expenses, and charges incurred after the bankruptcy filing that you assert are recoverable against the debtor or against the debtor's principal residence.

File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002.1.

Name of creditor: Dimon Homes, LLC

Court claim no. (if known): 5

Last 4 digits of any number you use to
identify the debtor's account: _____

Does this notice supplement a prior notice of postpetition fees,
expenses, and charges?

☐ No

☒ Yes. Date of the last notice: 02/12/2020

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	<u>2/10/20; 5/11/20</u>	(3) \$ <u>2,995.00</u>
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: _____	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002.1.

Debtor 1 Vincent A. Tortorello Case number (if known) 19-30367
First Name Middle Name Last Name

Part 2: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- ☐ I am the creditor.
☒ I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

X /s/ Ashley K. Rasmussen Date 06/19/2020
Signature

Print: Ashley K. Rasmussen Title Attorney
First Name Middle Name Last Name

Company Cohen Dovitz Makowka, LLC

Address 10729 W. 159th Street
Number Street
Orland Park IL 60467
City State ZIP Code

Contact phone 708-460-7711 Email bankruptcy@cdm.legal